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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91237315
Party	Plaintiff American Marriage Ministries
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

AMERICAN MARRIAGE MINISTRIES,)	Opposition No. 91237315
)	
Opposer,)	Marks: GET ORDAINED
)	Application No. 87430729
v.)	
)	
UNIVERSAL LIFE CHURCH)	
MONASTERY STOREHOUSE, INC.)	
)	Filed: October 18, 2017
Applicant.)	

TESTIMONY FOR PLAINTIFF

Opposer American Marriage Ministries hereby submits the final transcript of the certified corrected transcript of the testimony deposition of Brian Wozeniak taken September 10, 2020 (with exhibits and errata sheet). The transcript was not available to Opposer at the close of Plaintiff's Testimony Period, as indicated in Opposer's Notice of Reliance referencing this testimony in Exhibit "X" to that submission. Applicant has received a copy of the transcript, the transcript errata sheet and the deposition exhibits.

The testimony is relevant as evidence of services offered by Opposer, use of "get ordained" by Applicant for search engine optimization, the relevant public's understanding of the term "get ordained." Such evidence is associated with manner of use by Applicant, context for use of the term by parties other than the Applicant, significance of term to the average purchaser or online ordination services, failure of the term "get ordained" to function as a trademark or source identifier for relevant services, descriptive use of "get ordained," generic use of "get ordained," and damage to the Opposer which would result if a "term of art" or key phrase used by the industry is not available for use.

Dated: November 5, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2020, I served the foregoing Testimony Transcript on the Applicant by emailing to Applicant as follows:

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/Nancy V. Stephens/
Nancy V. Stephens

AMERICAN MARRIAGE
MINISTRIES,

VS.

UNIVERSAL LIFE CHURCH
MONASTERY STOREHOUSE, INC.,

Opposition No.
91237315

Seattle, Washington

Reported by:

LISA TRONCOSO, RPR, CSR, CLR

TSG Reporting - Worldwide 877-702-9580

1 Zoom deposition of BRIAN WOZENIAK,
2 held remotely before Lisa Troncoso, a
3 Registered Professional Reporter, Certified
4 Livenote Reporter, and Washington Certified
5 Shorthand Reporter 3090 at 2:11 p.m.

A P P E A R A N C E S

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INDEX

EXAMINATION

PAGE

MS. MENNEMEIER.....6

EXHIBITS

PAGE

Exhibit L:

Attorneys' eyes only document

(Retained by counsel).....28

1 BRIAN WOZENIAK

2 -o0o-

3 BRIAN WOZENIAK,

4 called as a witness, having first been sworn by
5 the Certified Shorthand Reporter, was examined
6 and testified as follows:

7 EXAMINATION BY:

8 MS. MENNEMEIER:

9 Q. Could you please state your name?

10 A. Brian Wozeniak.

11 Q. Mr. Wozeniak, do you understand that
12 you're under oath today?

13 A. Yes.

14 Q. Do you understand that that's the
15 same oath that you would take if you were
16 testifying in court?

17 A. Yes.

18 Q. Do you understand that this
19 proceeding -- that your testimony today in the
20 opposition proceeding related to the mark get
21 ordained in front of trial trademark -- the
22 Trademark Trial and Appeals Board?

23 A. Yes.

24 Q. Are you familiar with the Universal
25 Life Church Monastery Storehouse?

BRIAN WOZENIAK

A. Yes.

Q. What is your role with the Universal Life Church Monastery Storehouse?

A. I'm the chief pathology officer.

Q. How long have you been in that role?

A. Since around February of this year.

Q. Have you held prior roles with Universal Life Church Monastery Storehouse?

A. Yes.

Q. What roles?

A. Before that I was lead web developer, and before that I was senior web developer.

Q. How long have you been employed by the ULCMS?

A. Since early 2014.

Q. Can we agree that if I use the term ULCMS today in my questions that I'm referring to the Universal Life Church Monastery Storehouse?

A. Yes.

Q. Is it true that ULCMS operates a number of different websites?

A. Yes.

BRIAN WOZENIAK

Q. Is getordained.org one of ULCMS websites?

A. Yes.

Q. Can a member of the public get ordained by visiting the get ordained website?

MR. MATESKY: Objection, vague in use of get ordained.

THE WITNESS: They can become a minister, yes.

BY MS. MENNEMEIER:

Q. Is askulc.org one of the ULCMS' websites?

A. Yes.

Q. Can a member of the public get ordained by using the website?

MR. MATESKY: Same objection as before.

THE WITNESS: On the website you can become a minister, yes.

BY MS. MENNEMEIER:

Q. Is the monastery.org one of the ULCMS website?

A. Yes.

Q. And to confirm my understanding, can

1 BRIAN WOZENIAK

2 you get ordained through the monastery.org
3 website?

4 MR. MATESKY: Same objection as
5 before.

6 THE WITNESS: They can become a
7 minister, yes.

8 BY MS. MENNEMEIER:

9 Q. Do any of the web pages on the
10 monastery.org redirect users to the
11 getordained.org website?

12 A. Can you clarify by what you mean by
13 redirect?

14 Q. Sure. If a user types in -- let me
15 ask that actually.

16 If a user types the monastery.org
17 into an internet browser, is the user
18 redirected to the URL monastery.org?

19 A. Typically it's redirected to
20 www.monastery.org.

21 Q. Thank you for that clarification.
22 If a user visits any page -- if a user types in
23 any page that begins with the monastery.org,
24 will they ever be directed to a URL that begins
25 www.getordained.org?

BRIAN WOZENIAK

A. It's possible. I'm not sure offhand.

Q. Are you aware of any web pages on the monastery.org website that would redirect a user to the getordained.org website?

A. I'm not aware offhand. It's possible though.

Q. Do any of the web pages on ulc.org's website redirect users to the getordained.org website?

A. It's possible. I'm not sure offhand.

Q. Do any of the web pages on the getordained.org website redirect users to the monastery.org?

A. Again, it's possible. I'm not sure offhand.

Q. Do you know whether any of the web pages on the getordained.org website redirects users to the ulc.org website?

A. It's possible, but I'm not sure offhand.

Q. Do you know whether any pages on the getordained website redirects users to any

1 BRIAN WOZENIAK

2 other ULC's website?

3 A. I'm not sure offhand. It's possible
4 though.

5 Q. Can you think of any sitting here
6 today?

7 A. Not offhand, no. It's possible in
8 the past we had, or currently. I --

9 MR. MATESKY: I think you might have
10 cut out on the answer there, Brian.

11 THE WITNESS: It's possible we have
12 in the past, or currently we do, but I'm
13 not sure offhand if we currently redirect.

14 BY MS. MENNEMEIER:

15 Q. Okay. When a member of the public
16 is ordained by filling out an application on
17 the monastery.org website, does that ordination
18 application get processed through the
19 monastery.org website?

20 MR. MATESKY: Brian, you're muted.

21 MS. MENNEMEIER: There we go.

22 THE WITNESS: Okay. Can you repeat
23 the question, please?

24 MS. MENNEMEIER: Can you read back
25 the question.

1 BRIAN WOZENIAK

2 (The last question was read back.)

3 THE WITNESS: When any forms get
4 onto the monastery.org, it's processed by
5 the monastery, correct.

6 MR. MATESKY: I think I can hear
7 most of that, but you are cutting out every
8 now and then, Brian. I don't know if --
9 because we're just getting started now, it
10 might be good to try that now.

11 THE WITNESS: Give me one second.

12 Okay.

13 BY MS. MENNEMEIER:

14 Q. When a member of the public is
15 ordained by filling out an application on the
16 ulc.org website, does that application get
17 processed through the ulc.org website?

18 A. When they fill out an application to
19 become a minister, yes, it's via the ulc.org
20 website.

21 Q. Okay. And then with respect to
22 applications filled out on the getordained.org
23 website, are those applications processed
24 through the getordained.org website?

25 A. Yes, those are processed through the

BRIAN WOZENIAK

getordained website.

Q. Is it fair to say that an application filled out on one of ULCMS's websites does not get processed through a different one of the ULCMS's website?

A. Can you repeat the question?

Q. Is it true if an application is filled out on one of the ULCMS's websites, that the application does not get processed through a different one of ULCMS's websites?

A. We do have some websites that process it via different websites that we own.

Q. Do you have any websites for which -- besides the getordained.org website for which the ordination applications are process by the getordained.org website?

A. Sorry, can you repeat that?

Q. Do you have websites for which, be it ordination application is processed by the getordained.org website, besides obviously the applications filled out on the getordained.org website?

A. So it's not as easy as that because you have a website that -- currently

BRIAN WOZENIAK

getordained.org, the monastery.org, ulc.org, they all have the same underlining system. The system is the same on all of them. The front end might be different, but the system is the same, the database is the same. So for one ordination form to be completed on ulc.org, it all goes into the same database. There's just records that might change a little bit, if that makes sense. The system is the same.

Q. From what?

MR. MATESKY: I'll just note a couple of times you were cutting out there, not too bad. Maybe we can keep going, and if it gets bad we can try something else.

BY MS. MENNEMEIER:

Q. From what the person filling out the ordination application fee is, do they -- does that person stay on the same website they started the application on when they finished the application?

A. Depends on which website.

Q. Which website -- for which website will somebody end up on a different website?

A. I might not remember many of them.

BRIAN WOZENIAK

I can think of offhand possible
universallifechurch.org has a form on the page
that may register through the other systems, so
it doesn't store it on its own website, in
other words.

We have others, too. I can't
remember all of them offhand. I'd have to --
there might be links, and some may have a form
that processes it, but it doesn't store
anything in it.

MR. MATESKY: Sorry, can we take
just a 30 second break? I've got noise
here.

MS. MENNEMEIER: Of course.

(Break from 2:22 to 2:24 p.m.)

BY MS. MENNEMEIER:

Q. Going back on the record. Do you
know whether any of the web pages for which the
ordination applications maybe processed through
or take a user to a different website, whether
any of those direct the user to the
getordained.org website?

A. I'm not sure offhand.

Q. Does ULCMS advertise for its

BRIAN WOZENIAK

websites?

A. Yes.

Q. Does ULCMS conduct advertising through Google?

A. Yes, Google ad words.

Q. Is Google ad words the advertising platform that Google uses?

A. Google owns that platform, yes.

Q. To advertise via Google ad words, does a person or organization need a Google ads account?

A. Yes, you would need to create an account.

Q. Is it true that ULCMS has three separate Google ad accounts for the three website: Getordained.org, ulc.org, and the monastery.org?

A. Yes, there's three separate accounts on Google ads.

Q. Do you have access to all three of those Google ads accounts?

A. Yes.

Q. You manage two of those accounts, right?

BRIAN WOZENIAK

A. Yes.

Q. Which two of those accounts do you manage?

A. Getordained.org and ulc.org.

Q. Who manages the monastery.org account?

A. Portent.

Q. Who is Portent?

A. It's a company that helps manage Google ad words and occasionally provides advice.

Q. Do you receive regular reports from Portent on the ads that Portent runs for the monastery.org?

A. Yes.

Q. Are you familiar with the ads that Portent runs for the monastery.org?

A. I've seen a few.

Q. With respect to the text of the ads that ULCMS runs through Google ads, does ULCMS use the phrase get ordained in the text of any of its ads for the getordained.org website?

MR. MATESKY: Objection, compound, ambiguous.

1 BRIAN WOZENIAK

2 THE WITNESS: I believe so.

3 BY MS. MENNEMEIER:

4 Q. Does ULCMS use the phrase get
5 ordained in any of its ad text for ads -- for
6 the website located at ulc.org?

7 A. It's possible. I'm not sure
8 offhand.

9 Q. Do you know whether ULCMS has ever
10 used the phrase in ad texts for ads for the
11 website at ulc.org?

12 A. It's possible, but I'm not sure
13 offhand.

14 Q. Does ULCMS use the phrase get
15 ordained in any of its ad texts for ads for the
16 monastery.org website?

17 A. Again, it's possible, but I'm not
18 sure offhand.

19 Q. Do you know whether ULCMS has ever
20 used the phrase get ordained in ad text for ads
21 for the monastery.org website?

22 A. Again, it's possible, but I'm not
23 sure.

24 Q. In terms of when ads appear on
25 Google, is it true that Google allows

1 BRIAN WOZENIAK

2 organizations to bid on key words for which ads
3 will appear?

4 A. Yes.

5 Q. If somebody conducts a Google search
6 that's related to or identical to a key word
7 that an organization bid on, is it true that
8 the organization's ad may show up as a paid
9 search result in the list of Google search
10 results?

11 MR. MATESKY: Objection, compound.

12 THE WITNESS: It may show up. It
13 depends on how key words is put in the
14 system.

15 BY MS. MENNEMEIER:

16 Q. Is it true that the organization can
17 make its website appear higher in Google search
18 results for a given search term by bidding on a
19 key word related to or identical to that search
20 term?

21 A. I mean, it's possible. But you
22 can't bid for your position. Google has
23 algorithms and they make the decision. We
24 can't bid the position we want to be in. We
25 can certainly bid higher, but that doesn't

BRIAN WOZENIAK

guarantee we're going to be in the higher position.

Q. Will bidding higher on a key word improve the likelihood that a website for which one bid highly would appear higher in search results?

A. Most likely, yes.

Q. As part of ULCMS's advertising with Google, does ULCMS bid on key words?

A. Can you repeat the question?

Q. Sure. As part of ULCMS's advertising, does -- with Google specifically, does ULCMS bid on key words?

A. Yes.

Q. Does ULCMS use get ordained as a key word for any of its ads for the getordained.org website?

A. Probably, but I'm not sure offhand.

Q. Does ULCMS use the phrase ordained as a key word for any of its ads on --

MR. MATESKY: I didn't hear that. I heard noise as well.

THE REPORTER: I didn't get it either.

1 BRIAN WOZENIAK

2 BY MS. MENNEMEIER:

3 Q. Does ULCMS use get ordained as a key
4 word for any of its ads for the ulc.org
5 website?

6 A. It's possible. I'm not sure
7 offhand.

8 Q. Do you know whether ULCMS has ever
9 bid on get ordained for ads for ulc.org
10 website?

11 A. Again, it's possible, but I'm not
12 sure offhand.

13 Q. How would you find out?

14 A. I would have to log in to Google ad
15 words for ulc.org and I could look through the
16 key words that we're bidding on.

17 Q. Does ULCMS use get ordained as a key
18 word for any of its ads for the monastery.org
19 website?

20 A. It's possible, but I'm not sure
21 offhand.

22 Q. Do you know whether ULCMS has ever
23 used the phrase get ordained as a key word for
24 any of its ads for the monastery.org website?

25 A. Same thing. It's possible, but I'm

1 BRIAN WOZENIAK

2 not sure offhand.

3 Q. Besides looking in the Google ads
4 account that ULCMS has, is there any other way
5 you could figure out whether ULCMS bids on get
6 ordained for any of its websites?

7 A. Possibly Google analytics, because
8 it's seen on Google ad words.

9 Q. Anyplace else?

10 A. There might be, but I can't give any
11 offhand.

12 Q. Okay. Have you ever Googled the
13 phrase get ordained?

14 A. Pardon me?

15 MR. MATESKY: I didn't hear that
16 question.

17 BY MS. MENNEMEIER:

18 Q. Have you ever Googled the phrase get
19 ordained?

20 A. I believe so.

21 Q. How many times would you say that
22 you've Googled the phrase get ordained?

23 A. I have no idea. Plenty of times.

24 Q. Can you remember when you last
25 Googled the phrase get ordained?

1 BRIAN WOZENIAK

2 A. I cannot.

3 Q. Do you know whether American
4 Marriage Ministries shows up in the search
5 result get ordained?

6 MR. MATESKY: Objection, vague in
7 the use of American Marriage Ministries
8 here.

9 THE WITNESS: Yeah. Can you clarify
10 what you mean by that, please?

11 BY MS. MENNEMEIER:

12 Q. Sure. Do you know whether the
13 website operated by the organization American
14 Marriage Ministries shows up in search results
15 for the phrase get ordained?

16 A. Which website are you referring to?

17 Q. Specifically the website -- the
18 amm.org?

19 A. I believe I've seen it show up
20 there, but I'm not sure offhand.

21 Q. Is it your testimony today that you
22 don't remember whether the website at amm.org
23 shows up in searches for get ordained?

24 A. I believe I said I believe it does,
25 but I'm not entirely sure offhand. Things

BRIAN WOZENIAK

change every day, too. If it ranked and showed up last week, it may not today. I'm not sure. It's hard to say. Things change all the time with Google and they show up to a hundred result that could be on page 10. You're not being specific enough to answer that. It's possible is the best answer I think I can give for that.

Q. Have you ever seen the amm.org website in search results for get ordained?

A. I believe I have, but I'm not terribly certain.

Q. Do you regard the organization American Marriage Ministries as a competitor for web traffic for the search term get ordained?

A. I believe --

MR. MATESKY: Objection, vague.

THE WITNESS: I believe anybody that shows up for any phrases that we feel would bring relevant visitors to our website would be competitors for not domains we own.

BY MS. MENNEMEIER:

BRIAN WOZENIAK

Q. So the answer to my question is yes, right?

MR. MATESKY: Objection, leading.
Objection, mischaracterizes prior testimony.

THE WITNESS: If the amm.org is showing up for getordained.org key word then, yes, I would see that as a competitor.

BY MS. MENNEMEIER:

Q. Do you know whether AMM -- excuse me.

Do you know whether the organization American Marriage Ministries uses the phrase get ordained in its advertising?

A. I'm not sure offhand.

Q. I might have missed --

A. I'm not sure offhand.

Q. Do you know whether or not an organization besides ULCMS and American Marriage Ministries uses get ordained in advertising?

A. I'm not sure your question is specific enough, because are you referring to

BRIAN WOZENIAK

them actually bidding specifically for that key word? Because you can show up for a key word that you don't bid for.

Q. Sure. I'm asking generally whether you're aware of whether organizations -- you know what, why don't I break it down a little bit further.

Do you know whether organizations besides ULCMS or American Marriage Ministries bid on the key word get ordained?

A. I don't believe I have access to know exactly what they're bidding for, but I'm fairly sure people are probably bidding for that key word.

Q. Do you know whether AMM is bidding for the key word get ordained?

A. I'm not sure offhand. It's possible they can, or become a minister, showing up for them.

Q. Do you know if AMM has ever bid on the key word get ordained?

A. I have not asked them, so I don't know.

Q. Do you know whether any organization

BRIAN WOZENIAK

besides ULCMS or AMM has ever bid on the key word get ordained?

A. I have no idea. No way I can know that.

Q. Do you know whether AMM uses the phrase get ordained in any of its ad copy?

A. It's possible. I don't know.

Q. Do you know if any organization besides ULCMS or American Marriage Ministries uses the phrase get ordained in its ad copy?

A. I'm not sure.

Q. Do you know whether any organization besides ULCMS or getordained has ever used the phrase get ordained in its ad copy?

MR. MATESKY: Objection, vague.

THE WITNESS: Repeat the question, please?

BY MS. MENNEMEIER:

Q. Do you know whether any organization besides ULCMS and American Marriage Ministries have ever included the phrase get ordained in their ad copy?

A. I'm not sure.

Q. How long has -- been working. I'm

1 BRIAN WOZENIAK

2 not sure -- I keep hearing this.

3 MR. MATESKY: I think it might be
4 some feedback from your microphone or
5 something.

6 MS. MENNEMEIER: It's happening on
7 my end.

8 MR. MATESKY: I think so. It's not
9 that bad though.

10 MS. MENNEMEIER: Let me know if it
11 gets worse.

12 BY MS. MENNEMEIER:

13 Q. How long has ULCMS been working with
14 Portent?

15 A. I can't recall exactly, but many
16 years.

17 Q. More than five years?

18 A. Yes.

19 Q. Does Portent provide information to
20 ULCMS about advertising matters?

21 A. Yes.

22 Q. Does Portent give advice to ULCMS
23 about advertising matters?

24 A. We have conversations and advice on
25 situations. I'm not sure if that's how you

1 BRIAN WOZENIAK

2 would characterize it.

3 Q. Does Portent provide ULCMS with
4 reports on how ULCMS's websites are performing
5 in search results?

6 A. Yes.

7 Q. How frequently does Portent provide
8 those?

9 A. Every two weeks.

10 Q. What website does Portent provide
11 those biweekly reports for?

12 A. Getordained.org, ulc.org, and the
13 monastery.org.

14 Q. Okay. I'd like to turn now to some
15 exhibits, and these exhibits I believe have
16 been marked attorney's eyes only.

17 MR. MATESKY: This is -- that was
18 very distorted to me, was I the only one?
19 Can we take a break?

20 MS. MENNEMEIER: Sure. We can take
21 a 30 second break.

22 (Break from 2:41 to 2:42 p.m.)

23 (Exhibit L, marked.)

24 BY MS. MENNEMEIER:

25 Q. If I can get you to open the exhibit

1 BRIAN WOZENIAK

2 that's been pre-labeled L?

3 A. It's open.

4 Q. Great. Do you recognize this
5 document?

6 A. Yes.

7 Q. How do you recognize this document?

8 MR. MATESKY: So I'm going to object
9 to the use of this document because this
10 was in litigation subject to protective
11 order that prevents its use outside of that
12 litigation.

13 Brian is not going to answer
14 questions about this document, it's a
15 violation of the protective order.

16 MS. MENNEMEIER: Okay. I think
17 we're going to need to take a break, take a
18 look at that protective order and figure
19 out how to proceed.

20 Why don't we plan on taking a 10 or
21 15 minute break and we can try to pick back
22 up. It's 2:43 right now. Try to pick back
23 up at 2:55.

24 MR. MATESKY: Okay. Let's do that.

25 (Break from 2:43 to 2:55 p.m.)

1 BRIAN WOZENIAK

2 BY MS. MENNEMEIER:

3 Q. Going on the record. It's my
4 understanding this is a document that should
5 have been produced in the TTAB opposition
6 proceeding. At this point I see two options
7 for going forward. Either we proceed with
8 questions about this document and the couple
9 others that I would like to use as exhibits.
10 They should have been produced in this matter,
11 but were not.

12 Or we can, you know -- not proceed
13 with questions, and AMM can move the Board for
14 sanctions for this document and added to live
15 documents not having been produced in this
16 case?

17 MR. MATESKY: We disagree this is a
18 document that should have been produced.
19 But like I said before, we object to use of
20 this document outside the Federal court
21 litigation for which it was produced and
22 covered by protective order.

23 Any use for in this proceeding is a
24 violation of that order. So we're not
25 going to answer questions regarding these

1 BRIAN WOZENIAK

2 documents, and to the extent -- and they
3 should not be entered into the record.

4 If they are, that will be a
5 violation of the order and we will have to
6 go to the Federal court to seek sanctions.

7 MS. MENNEMEIER: And I think we
8 can -- move TTAB for sanctions without
9 necessarily having to introduce these
10 specific documents and we certainly intend
11 to do, so my understanding is you do not
12 intend to allow Brian to answer questions
13 about these documents today, correct?

14 MR. MATESKY: No, that would be a
15 violation of the protective order, the
16 court order, so no.

17 MS. MENNEMEIER: Okay. I mean, and
18 I want to make the record perfectly clear
19 that this is a document that is designated
20 confidential and attorneys' only because
21 ULCMS has elected to it, and at this point
22 you're taking the position that you would
23 like this document to remain subject to
24 those two terms, subject to protective
25 order in the Federal litigation and will

1 BRIAN WOZENIAK

2 not allow questions about this document in
3 this proceeding; is that right?

4 MR. MATESKY: This has been
5 designated as attorneys' eyes only pursuant
6 to a protective order issued in the Federal
7 court litigation proceeding the Western
8 District of Washington. We do intend to
9 maintain that designation. We're not
10 waiving that designation and we are not
11 consenting to use of this document in other
12 proceedings, which would be in violation of
13 that protective order.

14 MS. MENNEMEIER: Well, and I do want
15 to make clear that because it's a document
16 that ULCMS has designated, you could
17 consent to its use in this proceeding,
18 consent to questions about this document in
19 this proceeding because you're sort of the
20 holder of the protection, but I understand
21 that you don't intend to do that today.

22 MR. MATESKY: Well, no. We're not
23 waiving the designation, first of all,
24 because it was designated attorneys' eyes
25 only for good reason.

1 BRIAN WOZENIAK

2 MS. MENNEMEIER: I'm not asking to
3 waive the designation. I'm simply asking
4 whether you will consent to allow its use
5 in this proceeding and to allow questions
6 on it in this proceeding.

7 MR. MATESKY: Well, the answer is
8 no, but it's also because I don't know if
9 that is actually allowed under the
10 protective order without waiving the
11 designation. My reading of the protective
12 order in a Federal court case is that use
13 for other proceedings is not allowed or
14 confidential for attorneys' eyes only
15 material designated under that order.

16 We're not waiving the designation
17 because it's confidential material. And
18 for that reason, it would be a violation of
19 the order to use it otherwise. I think I
20 understand your position, but I don't
21 believe we have interpretation of the
22 mechanics of the protective order in
23 Federal court litigation. In any event,
24 no, we're not going to be using this in
25 this proceeding.

1 BRIAN WOZENIAK

2 MS. MENNEMEIER: I would offer we
3 certainly agree to some stipulation by
4 which the document retains its attorneys'
5 eyes only designation and -- but you would
6 also allow it to be used in this proceeding
7 if that were something that you were open
8 to, you know.

9 We would be happy to enter into a
10 separate agreement pertaining to these
11 specific documents. I want to put that on
12 the record, if that's something that --

13 MR. MATESKY: It's not something
14 we're going to agree to right now.

15 MS. MENNEMEIER: Okay.

16 MR. MATESKY: And we can maybe talk
17 about it later. But, no, we're not going
18 to agree to that right now. If you can
19 explain your basis for the position that
20 this should have been produced in the get
21 ordained opposition matter I'm not sure why
22 you think that's the case.

23 MS. MENNEMEIER: Sure. I mean, I'm
24 not sure that it makes sense to have this
25 conversation necessarily with Brian around,

1 BRIAN WOZENIAK

2 because I do -- I was intending to ask him
3 some questions about it and this is getting
4 into -- you know, and now it's just a
5 document.

6 It certainly is our position that
7 this document and some of the other Portent
8 documents were responsive discovery
9 requests in the TTAB matter and should have
10 been produced in that matter.

11 MR. MATESKY: Okay. I think at this
12 point -- here's what I suggest. We go
13 through and ask the questions you want to
14 related to this document, and when you're
15 done with that we can take five minutes and
16 consider whether there's any other option.
17 How does that sound?

18 MS. MENNEMEIER: That sounds fine.
19 The only questions that I have remaining
20 are questions about these three documents.

21 MR. MATESKY: Okay. Why don't we
22 take another -- that's at least good for
23 time purposes. Why don't we take
24 another -- sorry to keep taking these
25 breaks. Let's take another five minute

1 BRIAN WOZENIAK

2 break and then come back.

3 MS. MENNEMEIER: Okay.

4 (Break from 3:02 to 3:13 p.m.)

5 MR. MATESKY: ULCMS is taking the
6 same position that we object to the
7 introduction of these documents, questions
8 on this document, and the TTAB proceeding.

9 Brian is not going to answer
10 questions about them. We object to them
11 being introduced as exhibits because of the
12 protective order in case in Federal Court
13 litigation between the parties in the
14 Western District of Washington.

15 I've taken a look at discovery
16 requests and I don't think these documents
17 were responsive to the discovery requests
18 in this matter. I don't -- we're not going
19 to change our position on that matter
20 today, you know.

21 Kelly, if we meet and confer about
22 this further and you will convince us that
23 oh, yes, this actually was responsive or
24 something to that effect we're willing to
25 talk about that, but we're not going to

1 BRIAN WOZENIAK

2 change our position on this right now.

3 MS. MENNEMEIER: Understood. Then
4 AMM is going to reserve all of its right
5 with respect to questions regarding this
6 document, including the right to move for
7 sanctions for these documents not being
8 produced in response to discovery.

9 And subject to sort of that
10 reservation I have no further questions for
11 Brian about subjects not related to these
12 three documents.

13 MR. MATESKY: And I have no
14 questions on cross.

15 (Time noted: 3:15 p.m.)
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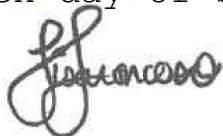
C E R T I F I C A T E

I, LISA TRONCOSO, a Certified
Shorthand Reporter in and for the State of
Washington, do hereby certify:

That, BRIAN WOZENIAK, the witness
whose deposition is hereinbefore set forth, was
duly sworn by me and that such deposition is a
true record of the testimony given by such
witness.

I further certify that I am not
related to any of the parties to this action by
blood or marriage; and that I am in no way
interested in the outcome of this matter.

IN WITNESS THEREOF, I have hereunto
set my hand this 28th day of September, 2020.



LISA TRONCOSO, RPR
Washington CSR 3090

ERRATA SHEET

1

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

6 _____

7 _____

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21 _____
Signature of Deponent

22 SUBSCRIBED AND SWORN BEFORE ME

23 THIS _____ DAY OF _____, 2020.

24 _____

25 (Notary Public) MY COMMISSION EXPIRES: _____

ERRATA SHEET

1

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

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22 SUBSCRIBED AND SWORN BEFORE ME

23 THIS 3 DAY OF November 2020.

24

25 (Notary Public)

MY COMMISSION EXPIRES: 04/11/2023

B. W. Wenzel
Signature of Deponent

EILEEN GONZALEZ
Notary Public
State of Washington
Commission # 207613
My Comm. Expires Apr 11, 2023

Page:Line(s)	Now Reads	Should Read	Reason
6:5	chief pathology officer	chief technology officer	transcription
7:12	askulc.org	ulc.org	transcription
7:22	the monastery.org	themonastery.org	extra space
8:2	the monastery.org	themonastery.org	extra space
8:9-10	the monastery.org	themonastery.org	extra space
8:16	the monastery.org	themonastery.org	extra space
8:18	monastery.org	themonastery.org	transcription
8:20	monastery.org	themonastery.org	transcription
8:23	the monastery.org	themonastery.org	extra space
9:5	the monastery.org	themonastery.org	extra space
9:15-16	the monastery.org	themonastery.org	extra space
10:17	the monastery.org	themonastery.org	extra space
10:18-19	the monastery.org	themonastery.org	extra space
11:3	get	are filled	transcription
11:4	onto	out on	transcription
11:5	the monastery	themonastery	extra space
13:2	the monastery.org	themonastery.org	extra space
13:18	fee	form	transcription
15:17-18	the monastery.org	themonastery.org	extra space
16:6	the monastery.org	themonastery.org	extra space
17:15-16	the monastery.org	themonastery.org	extra space
17:21	the monastery.org	themonastery.org	extra space
20:24	the monastery.org	themonastery.org	extra space
21:8	seen on	linked to	transcription
23:23	not domains	our domains	transcription
24:7	the amm.org	theamm.org	extra space
24:8	key word	keywords	spelling
28:12-13	the monastery.org	themonastery.org	extra space